

APPENDIX B

CONSTRUCTION TERMS, SCHEDULE, AND SEQUENCE

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I. CONSTRUCTION TERMS

A. Location of Cable

1. The Company shall install all cables in a manner consistent with existing telephone and public utility lines. Where such lines are underground at a particular location (other than on private property), the Company shall install its cable underground, except as otherwise provided in this Agreement or as otherwise approved by the agencies of the City having jurisdiction over such matters. Where either of such lines are above ground at a particular location, the Company may elect to install its cables above ground.
2. Whenever possible, the Company shall utilize existing telephone or public utility poles, ducts, conduits, or other facilities for the installation of cables. In any case in which the Company, directly or indirectly, owns, or controls the use of, a pole, the Company shall make use of such pole available to other cable television franchisees in a manner comparable to the manner in which public utility poles are to be made available under 47 U.S.C. § 224.
3. Wherever existing telephone or public utility poles, ducts, conduits, or other facilities cannot accommodate the installation of the Company's cables, or whenever the owners or operators of such facilities refuse to make available their existing facilities, or construct new facilities, for the installation of the Company's cables, the Company may, consistent with Section 6.4 of this Agreement, install additional facilities (subject to the obligation to obtain all necessary permits from the City's Department of Transportation and/or other applicable City agencies, including, without limitation, with respect to installation of additional above-ground poles or similar facilities, land use review pursuant to Department of City Planning requirements); provided that nothing herein

shall be deemed to relieve said owners or operators of any existing obligation they may have to make available their poles, ducts, conduits, and other facilities for the installation of the System. For purposes of this subsection 3, the term "facilities" shall include, without limitation, facilities providing underground access from the main ducts into each block.

4. For purposes of this Appendix B, references in this Appendix B to telephone or public utility facilities shall be deemed to include (without limitation), where applicable, facilities of Empire City Subway Company, Ltd.

B. Specific Terms

1. As provided in this Agreement, the Company shall comply with all applicable federal, state and City laws, rules, regulations, codes, and other requirements in connection with the construction, operation, repair, upgrade and maintenance of the System.
2. The installation of all cables, wires, or other component parts of the System in any structure shall be undertaken in a manner which does not interfere with the operation of any existing MATV, SMATV, MDS, DBS, or other distribution system in said structure, including any conduit used in connection with such other system. For the purpose of routine maintenance, repair, connection, installation, or disconnection, all System cabling and wiring in any structure shall be accessible from the "tap side" (or other facility that the Commissioner has determined provides comparable benefits to "tap side" access) in a public hallway, roof, basement, stairwell, or other public area in said structure. The Company will comply with all applicable laws regarding use by other multi-channel video providers of the Company's conduit, molding and similar enclosures for cable and related facilities, within buildings.
3. The Company must comply with, and shall ensure that its subcontractors comply with, all rules, regulations and standards of the Department of Transportation. If the construction, upgrade, repair, maintenance or operation of the System does not comply with such rules,

regulations and standards, the Company must, at its sole cost, remove and reinstall such cables, wires or other component parts of the System to ensure compliance with such rules, regulations and standards.

4. The Company shall comply with all applicable sections of the building and electrical codes of the City of New York and where the nature of any work to be done in connection with the installation, construction, operation, maintenance, repair, removal or deactivation of cable television facilities and associated equipment on, over, and under the inalienable property of the City requires that such work be done by an electrician, the Company shall employ and utilize only licensed electricians.

II. CONSTRUCTION OF UPGRADE

No later than June 30, 1999, or such other date(s) may be otherwise provided pursuant to 9 NYCRR § 595.1, the Company shall submit a planned upgrade construction schedule and specific construction sequencing plans (including a color coded map by year, the estimated number of homes upgraded in each sequence and a separate map depicting the projected head-end(s), hub(s) and fiber backbone routes and locations). All such construction schedules shall be fully justified on the basis of factors which will affect construction in the City, and Company shall set forth any factors which may adversely affect its ability to meet the schedules. The Company must report any material deviation from the original upgrade construction schedule and sequence to the Commissioner on a quarterly basis until the completion of the Upgrade.

The Upgrade shall be initiated in 1999 and completed by December 31, 2003, unless the schedule for completion is amended in accordance with the terms of this Agreement.

Not less than thirty (30) days prior to completion of the Upgrade, the Company shall notify the Commissioner that the Upgrade is substantially complete. The Commissioner and the Company shall arrange for such inspections as the Commissioner shall deem appropriate to ascertain whether the Upgrade has been completed as scheduled. The Commissioner shall accept the completion of the Upgrade upon the Commissioner's satisfaction that the obligations of the Company to complete the Upgrade have been fulfilled in all respects.

Upon completion of the Upgrade, the Company shall be capable of providing the upgraded Service to every block in the Initial Construction Area in the Existing Franchise except as provided in Section 3.2.02 of this Agreement. Upgraded Services shall be made available in incremental stages as construction progresses and sound technical and administrative practice permits.

III. MODIFICATIONS AND AMENDMENTS

This Appendix may not be modified or amended without prior approval of the City, provided that the Commissioner may, upon petition of the Company, amend or grant other appropriate relief from the construction terms set forth in Section I of this Appendix, and the plan(s) for the sequence of construction as described in Section II of this Appendix.